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8 Attorney for Plaintiff  
9 SHELBY MARIE GERST

10 UNITED STATES DISTRICT COURT  
11 EASTERN DISTRICT OF CALIFORNIA  
12 SACRAMENTO DIVISION

13 SHELBY MARIE GERST,

14 Plaintiff,

15 v.

16 MARTIN J. O'MALLEY,  
17 Commissioner of Social Security,

18 Defendant.

Case No. 2:24-cv-00216-CSK

STIPULATION FOR THE AWARD  
AND PAYMENT OF ATTORNEY FEES  
AND EXPENSES PURSUANT TO THE  
EQUAL ACCESS TO JUSTICE ACT;  
ORDER

19 IT IS HEREBY STIPULATED by and between the parties through their  
20 undersigned counsel, subject to the approval of the Court, that Plaintiff be  
21 awarded attorney fees and expenses in the amount of \$1,540.94, under the  
22 Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412(d), and \$405.00 in costs  
23 under 28 U.S.C. § 1920. This amount represents compensation for all legal  
24 services rendered on behalf of Plaintiff by counsel in connection with this civil  
25 action, in accordance with 28 U.S.C. §§ 2412(d), 1920.

26 After the Court issues an order for EAJA fees to Plaintiff, the government  
27 will consider the matter of Plaintiff's assignment of EAJA fees to counsel.  
28

Pursuant to *Astrue v. Ratliff*, 560 U.S. 586, 598, 130 S.Ct. 2521, 177 L.Ed.2d 91 (2010), the ability to honor the assignment will depend on whether the fees are subject to any offset allowed under the United States Department of the Treasury's Offset Program. After the order for EAJA fees is entered, the government will determine whether they are subject to any offset.

Fees shall be made payable to Plaintiff, but if the Department of the Treasury determines that Plaintiff does not owe a federal debt, then the government shall cause the payment of fees, expenses and costs to be made directly to Plaintiff's counsel, Francesco Benavides, pursuant to the assignment executed by Plaintiff.

This stipulation constitutes a compromise settlement of Plaintiff's request for EAJA attorney fees and does not constitute an admission of liability on the part of Defendant under the EAJA or otherwise. Payment of the agreed amount shall constitute a complete release from, and bar to, any and all claims that Plaintiff and/or Francesco Benavides, including the Law Offices of Francesco Benavides, may have relating to EAJA attorney fees in connection with this action.

This award is without prejudice to the rights of Francesco Benavides to seek Social Security Act attorney fees under 42 U.S.C. § 406(b), subject to the savings clause provisions of the EAJA.

Respectfully submitted,

Dated: March 29, 2024

Law Offices of Francesco Benavides

By: /s/ Francesco Benavides  
FRANCESCO P. BENAVIDES  
Attorney for Plaintiff

1 Dated: March 29, 2024


PHILLIP A. TALBERT  
United States Attorney  
MATHEW W. PILE  
Associate General Counsel  
Social Security Administration

5 By: Christopher Vieira\*  
CHRISTOPHER VIEIRA  
Special Assistant U.S. Attorney  
Attorneys for Defendant  
(\*Permission to use electronic signature  
obtained via email on March 29, 2024).

11 **ORDER**

12 Based upon the parties' Stipulation for the Award and Payment of Equal  
13 Access to Justice Act Fees and Expenses, **IT IS ORDERED** that fees and  
14 expenses in the amount of \$1,540.94 as authorized by 28 U.S.C. § 2412, and  
15 \$405.00 in costs under 28 U.S.C. § 1920, be awarded subject to the terms of  
16 the Stipulation.  
17  
18  
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20 Dated: April 9, 2024

21   
22 CHI SOO KIM  
23 UNITED STATES MAGISTRATE JUDGE

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